

REMARKS

Claims 1-5 are pending in this application. By this Amendment, claims 1-5 are amended. In light of at least the following remarks, Applicant respectfully requests reconsideration and allowance of the pending claims.

Applicant appreciates the courtesies extended to Applicant's Representative by Examiner Dondero during the June 22, 2006 telephone interview. During the conference, Examiner Dondero indicated that the amendments herein would not constitute grounds for a new search.

I. Claim Rejections Under 35 U.S.C. §103(a)

Claims 1 and 3 are rejected under 35 U.S.C. §103(a) as unpatentable over U.S. Patent No. 2,810,436 to Cheshko in view of Japanese Publication JP6-45172 to Yano. Applicant respectfully traverses the rejection.

Regarding claims 1 and 3, Cheshko at least fails to disclose (1) "the cutting blade moving in the cutting direction leaning against a counter surface which urges said cutting blade to pivot" and (2) "the cutting means is moved by the tension of the thread to be cut," as recited in claim 1. Yano does not cure these deficiencies.

Yano discloses a nipper 11 which resembles a hand tool in form, having handles 11b and 11c (paragraph [0004]). Nipper 11 cuts when handles 11b and 11c are forced together by cone tubed cam 14, which is pushed towards nipper 11 by telescopic motion of the piston rod of cylinder 13 (paragraph [0004]). Thus, the cutting means is not moved at all, rather the surface element creating the cutting force is moved using the external force of the cylinder 13.

Yano does not disclose a blade leaning against a counter surface as it is the handles 11b and 11c which contact a counter surface. Yano further does not disclose the cutting means "moved by the tension of the thread to be cut" as the force moving the cutting means is cylinder 13.

The Office Action rejects claims 2 and 4-5 under 35 U.S.C. §103(a) as unpatentable over Cheshko in view of Yano and U.S. Patent No. 4,826,103 to McKown. Applicant respectfully traverses the rejection.

McKown discloses assembly 30 which operates by a cable 33 to be cut contacting and causing cutter knife 90 to pivot, striking and driving strike piston 109 backwards to impact housing 110 (col. 8, lines 41-46). As a result, housing 110 moves and causes retainer spring 133 to compress, upon which pin 130 impacts and explodes the explode power load 125 which forces cutter knife 90 to cut the cable (col. 8, lines 46-49).

Regarding claims 2 and 5, Applicant respectfully asserts the modification of Cheshko and Yano by McKown is improper. The Office Action asserts that one of ordinary skill in the art would have added the retainer spring 133 of McKown to Cheshko to hold the cutting means open. However, retainer spring 133 in McKown does not hold the cutter knife 90 open as this is done by spring-biased post 98 (col. 7, lines 10-14). That is, the means which holds the cutter knife 90 open is spring-biased post 90 whereas the spring which is compressed by the tension of cable 33 is retainer spring 133. Thus, the motivation cited to modify Cheshko and Yano with the disclosure of McKown is incorrect.

Regarding claim 4, Applicant respectfully asserts that the modification of Cheshko and Yano by McKown is improper. The Office Action alleges that one of ordinary skill in the art would have added the disclosure of McKown to that of Cheshko and Yano to provide a clean, efficient cut. Applicant respectfully notes that this would cause the device disclosed by Cheshko as modified by the disclosure of Yano to be unsuitable for the intended use. Cheshko and Yano disclose devices for cutting thread and solder stalactites, respectively, intended for repetitive use in production environments. Adding the disclosure of McKown as suggested would require human intervention to replenish the explosive charge after each use.

As the purpose of the device of Cheshko as modified by Yano is to avoid human intervention each time a thread needs to be cut, the addition of McKown is improper. MPEP 2143.01(V).

For at least the foregoing reasons, Applicant respectfully requests withdrawal of the rejections.

II. Conclusion

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims 1-5 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



James A. Oliff
Registration No. 27,075

Jonathan H. Backenstose
Registration No. 47,399

JAO:JHB/tbm

Date: June 27, 2006

OLIFF & BERRIDGE, PLC
P.O. Box 19928
Alexandria, Virginia 22320
Telephone: (703) 836-6400

DEPOSIT ACCOUNT USE AUTHORIZATION Please grant any extension necessary for entry; Charge any fee due to our Deposit Account No. 15-0461
--